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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,004	05/08/2007	Georges Pilloy	339534US99PCT	3081
22850	7590	06/29/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER BLACKWELL, GWENDOLYN	
			ART UNIT	PAPER NUMBER
			1794	
			NOTIFICATION DATE	DELIVERY MODE
			06/29/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/599,004	<b>Applicant(s)</b> PILLOY, GEORGES	
	<b>Examiner</b> GWENDOLYN BLACKWELL	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 19-25 and 32-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 26-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/18/06</u>   | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1-18 and 26-31, in the reply filed on May 29, 2009 is acknowledged. The traversal is on the ground(s) that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction. This is not found persuasive because the lack of unity requirement dated 4/29/2009 specifically set out that Applicant's invention is known in the art. According to MPEP 1850, in part:

For example, a document discovered in the international search shows that there is a presumption of lack of novelty or inventive step in a main claim, so that there may be no technical relationship left over the prior art among the claimed inventions involving one or more of the same or corresponding special technical features, leaving two or more dependent claims without a single general inventive concept.

As a document was found which indicated that there was no novelty or inventive step in the main claim, there is considered no single general inventive concept. Furthermore, there is a serious burden placed on the Examiner if the two groups were to be examined together. Group I is classified in 428/690 and Group II would be classified in 427/190 which would result in a search covering more than one class and an extensive search for not only the compositional limitations of the article in Group I but also the compositional and deposition parameters of the process of making in Group II.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 contains the limitation that copper can be used as part of the layer structure. It is unclear how this is possible as the claims require that there is not copper. Clarification is requested.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

5. Claims 1-2, 6, 12-13, and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent no. 4,894,278, Servais et al.

#### ***Regarding claims 1***

The Servais et al disclose a mirror comprised of a glass sheet with a silver coating formed thereon, a layer of nickel, and a paint layer, (columns 1-2, lines 39-10; column 4, lines 1-4), meeting the limitations of claim 1.

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*Regarding claims 2, 6, 12-13, and 17-18*

The surface of the glass substrate can be sensitized with Sn, (column 4, lines 25-30), meeting the limitations of claim 2.

The solution can be deposited in the form of droplets (islets), (column 1, lines 21-30), meeting the limitations of claim 6.

There is no lead indicated as being part of the paint or varnish used as the protective coat, meeting the limitations of claims 12-13.

When the structure recited in the reference is substantially identical to that of the claims, the claimed properties or function are presumed inherent. *MPEP 2112.01*. Because the prior art exemplifies the applicant's claimed mirror structure, the claimed physical properties are inherently present in the prior art. Absent an objective showing to the contrary, the addition of the claimed physical properties to the claim language fails to provide patentable distinction over the prior art, meeting the limitations of claims 17-18.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-18 and 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent no. 6,251,482, Laroche et al.

*Regarding claims 1-10 and 15*

Laroche et al disclose a copper free mirror utilizing silver as the reflective material. The layer mirror can be formed using a layer structure such as, (columns 1-2, lines 50-24):

glass substrate/Pd and Sn/silver/coating treatment/paint layer.

Laroche et al does not specifically disclose that the coating treatment for the silver layer contains the exemplified materials of claims 1 and 10.

Laroche et al disclose that the use of Bi, Cr, Au, In, Ni, Pd, Pt, Rh, Ru, Ti, V, and Zn serve to increase the adhesion of silver coating thereby increasing durability, (column 2, lines 1-8). As several of the materials used to increase the adhesion of the silver material to the underlying layers are the same as those provided on the surface of the deposited silver coating, it would be obvious to one skilled in the art at the time of invention that those same materials could be used increase the adhesion of the silver layer to subsequent layers, meeting the requirements of claims 1-10 and 15.

*Regarding claims 11-14, 16-18 and 26-31*

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After the mirror has been treated with silver and the additional surface coating, a layer of silane is sprayed on the surface before that paint is applied, (columns 6-7, lines 66-4), meeting the requirements of claims 11, 14, and 26.

The paint is lead free, (column 4, lines 42-50), meeting the requirements of claims 12-13 and 27-28.

The silver has a thickness in the range of 70 -100 nm, (claim 12, column 14), meeting the requirements of claims 16 and 29.

When the structure recited in the reference is substantially identical to that of the claims, the claimed properties or function are presumed inherent. *MPEP 2112.01*. Because the prior art exemplifies the applicant's claimed mirror structure, the claimed physical properties are inherently present in the prior art. Absent an objective showing to the contrary, the addition of the claimed physical properties to the claim language fails to provide patentable distinction over the prior art, meeting the limitations of claims 17-18 and 30-31.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GWENDOLYN BLACKWELL whose telephone number is 571-272-5772. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on 571-272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GWENDOLYN BLACKWELL/  
Primary Examiner, Art Unit 1794